

# DAILY NEVADA STATE JOURNAL.

VOL. 5.

RENO, WASHOE COUNTY, NEVADA, THURSDAY MORNING, JULY 27, 1876.

NO. 100.

## PROFESSIONAL CARDS.

J. C. SMYLES,

SURVEYOR and DISTRICT RECORDER

—OF—

Peavine Mining District, Washoe Co.

NOTARY PUBLIC.

Office, Peavine. P. O. Peaville

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S. BISHOP, M. D., PHYSICIAN & SURGEON

RENO, NEVADA.

HAVING located myself permanently at this place, with the purpose of giving my entire attention to practice, I am prepared to give my professional attention to those desiring the same.

Particular attention given to cases in

Surgery and Diseases of Women and Children.

C. W. JONES is my authorized collector. \$125.

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ATTORNEYS—ATTORNEYS,

one in the County, the other in the Court.

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No. 28, Virginia Street, Reno.

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Dentist in Reno.

Work performed in a neat and satisfactory manner.

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OFFICE—West side of Virginia street, south of Second.

W. M. BOARDMAN,

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Reno, Washoe County, Nevada.

OFFICE—Virginia street. 12-12.

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—FOR THE—

TOWN of Reno.

Special Attention Paid to Collections and Police Business from Abroad.

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OFFICE—East side Virginia Street, Reno, Nev.

DR. S. A. McMEANS,

STATE OF VIRGINIA, NEV. OFFICE SOUTH

of the C. P. Railroad, on the east side of

the street, Reno. Always present when not absent.

J. B. GILSON,

JUDGE OF THE PEACE, REHO

TOWNSHIP, No. 8, ONE-HALF MILE SOUTH OF

Opposite Union Block.

RENO, NEVADA.

## MISCELLANEOUS.

S. N. DAVIDSON, JEWELER,

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DIAMONDS, SWISS WATCHES, RICH JEWELRY, and SILVER WARE.

The Largest Assortment of

GOLD AND SILVER WATCHES,

In Reno, at Prices that

DEFY COMPETITION.

WHOLE METAL PLATED GOODS,

From the best manufacturers.

IMPORTER OF

FRENCH BRONZES, CLOCKS,

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FANCY GOODS

—AND—

MUSICAL INSTRUMENTS.

ATTENTION IS INVITED TO A LARGE

Stock, that will compare favorably with

any in the country, and purchased with a view

of placing them at prices reasonable to my customers.

All goods warranted as represented and

willingly shown, whether purchased or not.

REPAIRING A SPECIALTY.

HYMERS & EVANS'

TRUCKEE LIVERY, FEED AND SALE STABLE!

Cor. Sierra and Second Streets, Reno, Nevada.

HORSES, BUGGIES AND

SADDLE HORSES

To let, and Horses Boarded by the Day, Week or Month. Terms to suit the time.

WE HAVE BOUGHT A Large Hay

Ward, with good Stables. Also, Corrals for

Loose Stock, well watered.

REARSE TO LET.

STAGES FOR PYRAMID CITY

Leave Reno on

MONDAYS, WEDNESDAYS AND SATURDAYS,

Returning the Next Day.

FARE.....\$5.00

J. L. McFARLIN,

Manufacturer of

QUARTZ FREIGHT AND FARM

WAGONS,

ALL KINDS OF CARRIAGES, SPRING WAG-

ONS, BUCK BOARDS and SULKIES made and

repaired.

HARD WOOD AND IRON AXLES FOR SALE

Agent for the

Chicago Thimble Wheel Wagon.

MICAR STREET, RENO, NEVADA;

[Opposite Masonic Hall.]

THE MINT,

Virginia Street, Reno.

J. C. BROWN & CO.....Prop's-

—THE FINEST BRANDS OF

WINES,

LIQUORS,

AND CIGARES.

Kept Constantly on Hand, at

Wholesale and Retail.

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W. J. LUKE,

HORSE SINGER AND FARRIER,

AWARDED TWO YEARS IN SUCCESSION

Prizes and Diplomas from the Nevada A. M. & M. Society, also two gold medals from the Humboldt District A. M. & M. Society.

PARTICULAR ATTENTION PAID TO LAME

AND INTERFERING HORSES.

SATISFACTION GUARANTEED.

A liberal share of patronage respect-

fully solicited.

Shop on Sierra street opposite Plaza (adjoining

J. L. McFarlin's).

WE CALL FOR AND RETURN CLOTHES

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We guarantee satisfaction.

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DR. S. A. McMEANS,

STATE OF VIRGINIA, NEV. OFFICE SOUTH

of the C. P. Railroad, on the east side of

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J. B. GILSON,

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TOWNSHIP, No. 8, ONE-HALF MILE SOUTH OF

Opposite Union Block.

RENO, NEVADA.

## DRUGS.

F. R. A. N. K. & CO.

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# DAILY NEVADA STATE JOURNAL

WASHOE COUNTY OFFICIAL PRESS

C. C. POWNING, EDITOR AND PROPRIETOR

THURSDAY.....JULY 27, 1876.

NATIONAL REPUBLICAN TICKET.

For President:

RUTHERFORD B. HAYES,  
OF OHIO.

For Vice President:

WILLIAM A. WHEELER,  
OF NEW YORK.

SUPREME COURT DECISION.

Alvaro Evans, Appellant, vs. L. W. Lee, Respondent.

[OPINION BY BEATTY, J.]

This is a suit for the recovery of certain parcels of land situate in Washoe county. The defendant, as one of his defences to this action, alleges that the land is the property of the Nevada Land and Mining Company (Limited), a corporation, and that he is in possession, under a contract with that company, for the conveyance of the premises to him. This plea, of course, is evidence in favor of the plaintiff of the existence and title of the corporation, and, in order to make out his *prima facie* case, it was only necessary for him to show conveyance from the corporation to himself. This he undertook to do, but his evidence offered for that purpose was excluded on the objection of the defendant, and judgment of non-suit rendered. The defendant appeals from the judgment on the ground that the Court erred in excluding the evidence referred to, and the only question to be decided is whether the evidence was competent and sufficient to prove a conveyance of the land from the corporation to the plaintiff.

The deed to the plaintiff was executed by one Story, claiming to act as the attorney in fact of the corporation and of the trustees named in two mortgages or deeds of trust of the corporation, by which the trustees are empowered, in case of default of payment of the indebtedness secured by the mortgages, to sell the mortgaged premises. The only objection to this deed executed by Story, as attorney, was that his authority was not proved. To show his authority the plaintiff offered in evidence copies of the records of Washoe county of the two mortgages above mentioned, of the power of attorney from the trustees named in the mortgages for Story. The objections of the defendant to the introduction of these papers raise a number of questions, the first of which is one of construction, viz: Did the trustees have power to sell without foreclosure is operative when the intention to confer it is clearly expressed, and in these mortgages the power is conferred in the plainest and fullest terms, coupled with a provision that purchasers from the trustees shall not be required in any case to prove that the conditions have arisen under which the trustees are authorized to sell. There can be no doubt, if the execution of the various powers under which Story claimed to act was sufficiently proved to entitle them to be admitted in evidence, that the plaintiff proved his case. Whether their execution was so proved or not depends upon the validity of the objections taken by the defendant at the time they were offered. His first objection was that the absence of the originals was not sufficiently accounted for. But the proof showed that the corporation was an English corporation, that the trustees and Story, the attorney, were residents in England, and that the papers were in England. They were out of the power of the plaintiff, and beyond the reach of the process of the Court, so that secondary evidence of their existence and contents was admissible without regard to the provisions of the recording act.

The next objection of the defendant was "that there was no proof of the authority of the officer before whom the acknowledgments of said mortgages and power of attorney from said company were taken, to take such acknowledgments." The acknowledgments of all these instruments are certified by the Vice Consul-General of the United States at London, under his official seal. His authority to take and certify acknowledgments of conveyances of real estate is established by the statute (Sec. 231 of the compiled laws) This section of the law was borrowed, along with the rest, from the State of California, and was of course taken with its known construction. In the case of *Mott vs. Smith* (16 Cal. 552), it was decided that the certificate of a Vice-Consul of the United States residing in the Sandwich Islands was of itself *prima facie* evidence of the execution of a deed. So in this case, the certificate of the Vice-Consul at London is of itself evidence so far as it is made in compliance with the law. There is no objection to the form of his certificates of the acknowledgement of the powers of attorney from the trustees to Story; but with respect to the deed to prove that he acted without authority. Our conclusion is that the plaintiff proved the execution of the deed of the corporation, it is objected that the certificate of the Vice-Consul affords no proof, and that there is no other proof, that the seal

attached to those deeds was the common seal of the corporation, or that the parties by whom it was affixed, and the name of the corporation subscribed, had any authority from the corporation to execute the deed. This objection will be better understood by reference to the language of one of the certificates, which is as follows:

"Consulate-General of the United States of America, London, England.—On this sixteenth day of June, in the year of our Lord one thousand eight hundred and seventy, before me, Joshua Nunn, Vice-Consul General of the United States of America for London and the dependencies thereof, personally appeared Edward Clavery Griffith and Sir John Campbell Lees (Knight), Directors, and John Able Robertson, Secretary of the Nevada Land and Mining Company (Limited), known to me to be the persons described in, and who, for and in the name of the Nevada Land and Mining Company (Limited), executed the foregoing instrument, and acknowledged to me that they executed the same freely and voluntarily, as and for the act and deed of the said Nevada Land and Mining Company (Limited), and for the uses and purposes therein mentioned."

The certificate to the power of attorney from the corporation to Story is fuller or at least more explicit than this in some respects, that is, the Vice-Consul certifies explicitly that the persons subscribing are directors and secretary of the company, and that the seal annexed is the corporate common seal of the company. The same objection, however, is made to all the certificates. That the statement of the Vice-Consul is no evidence of the genuineness of the seal or of the authority of the persons who affixed it. These objections present a number of important questions: How must the execution of a corporation deed be acknowledged or proved in order to entitle it to record? Will the same proof which entitles it to record entitle it to be read in evidence, or must the seal or the authority of those who affix it be proved *ab initio* like the authority of an attorney in fact? Ought the person executing a deed in behalf of a corporation by affixing its seal to "acknowledge" its execution, or ought he or a subscribing witness to "prove" it by swearing to the identity of the seal, and that it was affixed by one having the custody of it, or one specifically authorized? All these and perhaps other questions are raised by the defendant's objections, but in the view we entertain of the case it becomes unnecessary to decide them, and as they have not been very fully argued, we prefer not to do so.

Disregarding the certificates of acknowledgement of the execution of the two mortgages altogether, there is still sufficient evidence to prove *prima facie* that they are the deeds of the corporation. An Act of the Legislature of this State, approved March 3, 1869 (Statutes of 1869, p. 115), requires all foreign corporations to file in the office of the County Recorder of each county in the State wherein they are engaged in carrying on any kind of business, a proper authenticated copy of their certificate or act of incorporation, with a duly certified list of its officers appended. The intention of this Act was obviously to compel foreign corporations doing business in this State to furnish easily accessible evidence of their existence and of the names of their officers. The pleadings in this case establish, as against the defendant, the existence of the Nevada Land and Mining Company (Limited) and the fact that it is transacting business in Washoe county. It is therefore to be presumed that it has filed in the Recorder's office of Washoe county the papers which it is required to file by the law above cited.

On the trial, the plaintiff offered in evidence a paper which it was proved had been filed by the acting Superintendent of the company in this State, in attempting compliance with the law. This paper was not such a document as the law requires, and was not properly authenticated, but the evidence shows that the filing of it was the corporate act of the company, and we are satisfied that it is a safe and proper rule to hold that the corporation and those claiming under it are precluded from objecting to the contents of that paper as *prima facie* evidence, upon the ground that it does not come up to the requirements of law. Taking it then for evidence of what it contains, it proves, among other things, that in August, 1869, John A. Robertson was secretary of the company, and, as it bears the impression of the corporate seal, it proves the seal of the company. The testimony of the witness Fish proves that a *simile* of that seal was affixed to the two mortgages above referred to, the original of which he had seen and recorded, and altogether the proof amounts to this: That Robertson, the secretary of the company, put its seal to the first mortgage. If the law of England is the same as our own (and we can presume nothing else), Robertson was the proper custodian of the corporate seal, and when he affixed it to the mortgage the presumption is he did it by the direction of the company, and it devolves upon those who dispute the validity of the deed to prove that he acted without authority. Our conclusion is that the plaintiff proved the execution of the first mortgage, that the

therein named had power to sell without foreclosure. They empowered Story to sell and he conveyed to the plaintiff.

The judgment of nonsuit was therefore erroneous, and it is reversed and the cause remanded for further proceeding in accordance with the views herein expressed.

BEATTY, J.  
HAWLEY, C. J.  
EARL, J.

## TELEGRAPHIC NEWS.

### WESTERN DISPATCHES.

San Francisco News.

SAN FRANCISCO, July 26.

The Democratic State Convention was called to order by President Ryland. The attendance was small, most of the outside counties being represented by proxies. A recess was taken till noon when the Convention re-assembled. A wrangle was had in regard to selecting nominees from the districts. It was finally decided to adjourn for half an hour, in order to allow the districts to select names. The Fourth District met and named Frank Grinnell as elector and B. Castor as alternate. They also chose a campaign committee of eleven. The First nominated Stuart M. Taylor as elector and John Mulien as alternate, and Dr. Shorb was recommended as a delegate at large. The Second District nominated J. H. Budd of Stockton as elector and Bagge of Alameda as alternate. The Third nominated Barclay Henney as elector and Marion Biggs as alternate. They also, on motion of Senator Tuttle, nominated Luttrell for Congress. There will be a grand ratification meeting to-night.

Fifteen cases of small-pox were reported on Monday, and five up to noon yesterday. Two more deaths have occurred.

In the Alameda County Court on Monday, Harry Wakefield, husband of eight contemporaneous wives, was convicted of bigamy.

It is reported, on apparently good authority, that ex-Mayor Alvord will be the candidate of the Republicans of this district for Congress.

MINING ITEMS.—The number of mining dividends this month is not so large as usual.

The wood used by the mills on the Comstock Lode for 1876 is estimated to cost over \$3,000,000.

The July receipts from the Justice mine are expected to reach \$60,000. This mine has only recently commenced to turn out rich ore, and three small mills are now kept running.

The Aurora and Eberhardt Co., whose property is at White Pine, have declared a dividend in London of five shillings per share for the month of June. The May product was 48 bars valued at £10,000. The shares are quoted in the London market at £10 each.

JAMES B. MAXWELL, who killed a man in Spring valley in 1870, was shot dead by Joseph Woods, July 16, on Sevier river, Lincoln county, while about to drive some cattle which he claimed out of Woods' corral. He had been led to believe by Mrs. Woods that her husband was away from home, and did not see him until Woods rose up from his hiding place back of the corral and shot him.

This bill to encourage the building of telegraph lines between America and Asia—Alaska to the Amoor river country—has passed the Senate and gone to the House.

The official report of the Mexico Presidential election, gives Lloro de Toledo an overwhelming majority. It now remains for Congress to declare him re-elected.

PICTURE.—Is Reno not sufficiently public spirited to get up a picnic. It will hardly do to let the season pass without one.

Two cases of small-pox in Virginia, Stanley, the explorer, is safe.

Very rich rock from Black Hills.

NOTICE.—The undersigned, subscribers to the Episcopal Female Religious Fund, are notified that their subscriptions will be due and payable as follows:

THE stockholders of the Consolidated Poor Mining Company, a special meeting of said stockholders will be held in the town of Carson, Nev., at 11 o'clock A.M., on the 1st day of September, 1876, for the purpose of increasing the capital stock of said corporation from \$50,000,000 to \$100,000,000, the par value of ten dollars each, and for the transaction of such other business as may legally come before it.

By order of the Board of Trustees.

JOHN C. BROWN, Secretary.

RENO, NEVADA, July 26, 1876.

## POLITICAL.

### REPUBLICAN STATE CONVENTION.

NOTICE IS HEREBY GIVEN THAT PURSUANT to a resolution of the Republican State Central Committee, adopted March 10, 1876,

### A STATE CONVENTION

—WILL BE HELD—

AT CARSON CITY

On the 26th Day of August Next,

AT TWELVE O'CLOCK M.

For the purpose of nominating

Three (3) Presidential Electors, One

(1) Congressman, and One (1)

Judge of the Supreme Court,

And for the selection of a

STATE CENTRAL COMMITTEE

And the transaction of such other business as

may come before said Convention.

No person shall be allowed to vote in any election of Delegates to said Convention unless he be a citizen of the State of Nevada and shall pledge himself that he will vote at the next election for the nominees of the Republican National and State Conventions.

The different counties in the State are entitled to and will elect Delegates as follows:

Churchill county.....1	Lincoln county.....9
Douglas county.....3	Lyon county.....6
Elko county.....7	Nye county.....4
Esmeralda county.....4	Ormsby county.....6
Eureka county.....8	Storey county.....27
Humboldt county.....8	Washoe county.....6
Lander county.....5	White Pine county.....8

The different County Committees are requested and directed to provide for the selection of Delegates in their respective counties.

By order of the Committee.

J. E. REQUA, Chairman.

GEO. A. KING, Secretary.

1876-77.

At the City of Virginia,

—ON—

Monday, August 26th, A. D. 1876,

At 12 o'clock M.

For the purpose of nominating

Three (3) Presidential Electors,

One (1) Congressman,

One (1) Judge of the Supreme Court

And for the selection of

A STATE CENTRAL COMMITTEE.

The said Convention will consist of One Hundred and Forty-five (145) Members, apportioned as follows:

Churchill.....2	Lincoln.....10
Douglas.....8	Lyon.....5
Elko.....10	Nye.....6
Esmeralda.....5	Ormsby.....10
Eureka.....12	Storey.....38
Humboldt.....10	Washoe.....10
Lander.....8	White Pine.....8

The different County Committees are requested to cause

PRIMARY ELECTIONS

To be held in their respective counties for Delegates to the State Convention, in accordance with the above apportionment, on

SATURDAY, AUGUST 12, 1876.

At 12 o'clock, for the purpose of transacting such business as may properly come before the Committee.

T. H. BYRNE, Chairman.

W. M. THOMPSON, Secy.

1876-77.

A MEETING OF THE WASHOE COUNTY Republican Central Committee will be held at the Court House, Reno, on

SUNDAY, August 6th, 1876.

At 2 o'clock, for the purpose of transacting such business as may properly come before the Committee.

T. H. BYRNE, Chairman.

W. M. THOMPSON, Secy.

1876-77.

ALL who are opposed to the continuance in power of the Republican party, and who will pledge themselves to support the nominees of the Democratic National and State Conventions, are cordially invited to take part in the election of Delegates to the State Convention, in accordance with the above apportionment.

By order of the Committee.

W. E. F. DEAL, Chairman.

ROBERT E. LOWRY, Secy.

1876-77.

WASHOE COUNTY REPUBLICAN CENTRAL COMMITTEE.

RENO, NEVADA, July 26, 1876.

NOTICE.—The undersigned, subscribers to the Episcopal Female Religious

Fund, are notified that their subscriptions

will be due and payable as follows:

40 per cent. due and payable April 1st, 1876.

40 per cent. due and payable May 1st, 1876.



